

Serial No. 10/528,036
Amendment dated August 28, 2008
Non-Final Office Action mailed May 28, 2008

Remarks

The Examiner has noted that color drawings filed with the original application are not acceptable unless a petition is filed. Applicant is converting the color drawings to black and white drawings in a form that would be acceptable without such a petition. These drawings are being filed separately.

The Examiner has rejected claim 26-28 and 45-46 under 35 U.S.C. §103(a) as being unpatentable over Sachdeva et al. U.S. Patent No. 6,315,553 (“Sachdeva”) in view of Bergersen U.S. Patent No. 5,882,192 (“Bergersen”). This rejection is respectfully traversed. New claims 47-51 have been added.

Applicant’s invention relates to a system and method in which a database is maintained that contains a list of orthodontic practitioners who order custom orthodontic appliances from a particular source. Information is obtained from each of the listed practitioners of that practitioner’s preferences for the design and manufacture of custom orthodontic appliances for treating patients by the respective practitioner. The preferences may include, for example, types of orthodontic brackets or archwires, including bracket or archwire materials or configurations, usually preferred by the practitioner, unless an exception to the preferences is noted by the practitioner. The stored information represents the default preferences of the practitioner. Then, when the practitioner orders an orthodontic appliance from the source for one of the practitioner’s patients, the practitioner is only required to specify information regarding the appliance being ordered that is different than, or in addition to, the stored default information. This greatly simplifies the ordering process for the

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practitioner, saving time and reducing the likelihood of error. For example, orders from the practitioner may be made on-line via a computer or other communication device, and an order or prescription form may be displayed to the practitioner with the default information prefilled therein for the practitioner to review, accept or change, and supplement, as needed, to complete the order or request.

The rejection is based on a combination of two references, Sachdeva and Bergersen. Sachdeva is cited for the overall architecture of a server based orthodontic information system. The Sachdeva system includes an orthodontic server that stores information of particular cases of treatment of orthodontic patients. The server contains the software to create or modify a treatment plan. It communicates with a “site orthodontic system” on the orthodontic practitioner’s premises. The site system monitors the course of the patient’s treatment and communicates with the server so the server can modify the treatment plan. The Sachdeva server maintains no database that associates a plurality of orthodontic practitioners with the practitioner’s treatment plan preferences.

The Bergersen reference is cited because of its scant reference to a stored list of recommended practitioners at the top four lines of column 28. Bergersen states only that: “The apparatus may even be programmed for retaining a list of practitioners in a particular area and may recommend in the instructions to the patient a particular practitioner to perform the services recommended.”

The combination of Sachdeva and Bergersen fails to make a *prima facie* case of obviousness of the claimed invention. Neither discloses the maintenance or use of a database of “default

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information of treatment preferences associated with the requesting orthodontic practitioner,” as recited in new independent claim 47.

Independent claim 46 recites “in response to information from an orthodontic practitioner, providing an orthodontic appliance for an individual patient having a configuration that includes appliance parameters based at least in part on predetermined treatment plan options associated with the practitioner that have been retrieved from a previously created and maintained database containing data associating a plurality of orthodontic practitioners with treatment plan options respectively preferred by each orthodontic practitioner.” The emphasized subject matter of claim 46 is totally absent from the combination of recited references.

Further, independent claim 1 recites:

“maintaining a database ... containing data related to each of a plurality of orthodontic practitioners;
storing ... information identifying each of the practitioners ... and information relating to treatment plan options associated with each ...;
...
in response to ... information from ... [an] orthodontic practitioner, determining parameters for the configuration of a custom orthodontic appliance ... based ... in part on the stored treatment plan options”

From the above, it can be seen that each of the independent claims contains elements that are totally lacking from the cited references. Accordingly, no *prima facie* case for the obviousness of the claimed invention is made.

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For the reasons stated above, it is respectfully submitted that the claims, as amended, are allowable. An early allowance is therefore requested.

If, upon review of this response, the Examiner finds any formal or substantive issue remains that might be overcome by further amendment, communication with the undersigned is respectfully requested to arrive at an agreement to place the application in condition for allowance.

Applicants are of the opinion that no additional fee is due as a result of this Amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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